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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/987,172

11/13/2001

Yoshitaka Ohshima

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12/23/2004

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EXAMINER

QUARTERMAN, KEVIN J

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/987,172	Applicant(s) OHSHIMA ET AL.	
	Examiner Kevin Quarterman	Art Unit 2879	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 2,6 and 16.

Claim(s) rejected: 1,3-5,7,8,15 and 17.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. In response to applicant's argument regarding the indefiniteness rejection, the Examiner notes that in the Examiner's response to arguments of the Final Rejection mailed 27 July 2004, the dimensions "A" and "B" were referred to as the foil's pre-pinch seal dimensions as stated in claims 3 and 4, not as foil dimensions as alleged by applicant.


Applicant notes that since the application does not limit the dimension to any particular direction (e.g., a length or width), the Examiner should not require an amendment to the claims to recite such features. In response, the Examiner notes that 35 USC 112, second paragraph requires claims to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since there are multiple dimensions, the Examiner holds that the recitation of "the foil's pre-pinch seal dimension" in the claims do not meet the requirement of 35 USC 112, second paragraph, since it is not clear which dimension (e.g. length, width, height, etc.) is being referred to in the claims.

In response to applicant's argument that there are no pinch seals in the applied prior art of Horiuchi since the heating and softening process of Horiuchi is not a pinch-sealing process, the Examiner notes that the method of forming the device is not germane to the issue of patentability of the device itself. Claim 1 recites "a foil joined with the arc tube body by pinch seal..." The Examiner notes that the phrase "pinch seal" describes the method by which the foil is joined to the arc tube body and does not add any structural limitation to the claim. Even though Horiuchi does not specifically disclose the sealing method being a pinch-sealing method, the Examiner holds that Horiuchi teaches all of the structural limitations of the claim, as previously stated.

In response to applicant's argument that the residual compressive stress of 25MPa disclosed by Horiuchi is too high for use in the pinch seal of claim 1, the Examiner notes that the claim requires a compressive stress of 1MPa or more. Since 25MPa is more than 1MPa, the Examiner holds that Horiuchi discloses the claimed limitation of more than 1MPa.

In response to applicant's argument that the compressive stress of Horiuchi is at the interface of electrodes and the quartz glass instead of along a junction surface with the foil as claimed in the instant application, the Examiner notes that Horiuchi discloses that the quartz glass of the sealing portion should have residual compressive stress in the vicinity of the interface between the glass and the electrodes. Since Figure 3 of Horiuchi shows the sealing portion (2a) including the electrode (3) joined with the foil (4), the Examiner holds that the compressive stress of Horiuchi is also along a junction surface with the foil as claimed in the instant application.




JOSEPH WILLIAMS
PRIMARY EXAMINER